

By

Nichols

H. B. No. 1722

A BILL TO BE ENTITLED  
AN ACT

relating to the gathering of information for administrative investigation and adjudication by the Texas Department of Labor and Standards, providing a fine, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. The Legislature finds that the Texas Department of Labor and Standards as an enforcement agency must make numerous rulings, orders and decisions which can adversely affect certain individuals, associations and corporations. Such persons or entities are entitled to the administrative due process required by law. In order to provide such due process, the Commissioner of the Texas Department of Labor and Standards must be empowered to make investigations and administrative decisions in a manner which will ensure that all such actions are fair and judicious to all parties concerned.

Section 2. The Commissioner of the Texas Department of Labor and Standards, acting through his designated agents or representatives, shall have the power to enter any place of employment whenever there is reason to believe there may be a violation of any of the laws which the Texas Department of Labor and Standards is charged with enforcing. Upon such entry, the Commissioner or his designated agent or representative may make any reasonable investigation in regard to such alleged violation. Such investigation may include the questioning of employees, under oath or otherwise, and the right to peruse and make copy of any papers, records, documents, accounts, or other evidence related to the alleged violation. Such investigation shall be in compliance with all state and federal laws pertaining to copyrights, trademarks, and trade secrets.

Section 3. The Commissioner of the Texas Department of Labor and Standards, acting through his designated agents or representatives, shall have the power to issue subpoenas duces tecum, to take affidavits, depositions, and written interrogatories in regard to the administration or enforcement of any of the

laws which the Texas Department of Labor and Standards is charged with administering or enforcing. Parties or witnesses shall have the right to legal counsel at any such proceedings, and the information gathered at such proceedings shall be admissible as evidence in all courts in the State of Texas, subject to the rules of admissibility for other affidavits, depositions, and written interrogatories as may exist or may be promulgated by appropriate authorities.

Section 4. Any person who interferes with or restrains the Commissioner of the Texas Department of Labor and Standards or his designated agents or representatives in the carrying out of any of the provisions of this Act shall be subject to a fine of not less than \$50 nor more than \$250 for each such act of interference or restraint.

Section 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

COMMITTEE REPORT

THE HONORABLE BILL CLAYTON  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

Date April 16, 1975

SIR:

We, your COMMITTEE ON

Labor

to whom was referred

HB 1722

(measure)

have had the same under consideration and beg to report back with the recommendation that it

- ( ☒ ) do pass, without amendment.  
(    ) do pass, with amendment(s).  
(    ) do pass and be not printed; a committee substitute is recommended in lieu of the original measure.

~~The Committee~~  
This measure (    ) proposes new law.  
( ☒ ) amends existing law.

~~House Committee on~~  
The measure was reported from Committee by the following Record Vote:

6 ayes  
0 nays  
0 present, not voting  
5 absent

Eddie Bernice Johnson  
Chairman

Return with Original Measure

BILL ANALYSIS

Background information

The Texas Department of Labor and Standards has been given the responsibility of enforcing various state laws in the field of labor. As an enforcing agent, the Department must be able to marshal information bearing on its investigations, rulings and decisions.

What the bill proposes to do

This bill proposes to provide explicit authorization for the Department to gather facts vital to its investigation of alleged and possible violations of the laws it has been assigned to enforce.

Section by section presentation of the content

- Section 1           The Commissioner of the Texas Department of Labor and Standards must be empowered to collect information pertinent to the investigation of possible violations of the labor laws, in order to insure fair and judicious proceedings and decisions.
- Section 2           Authorizes the Commissioner and the Commissioner's agents to (1) enter any place of employment where there is reason to believe a violation may be and (2) make any reasonable investigation of alleged violations, including questioning employees, perusing, copying papers, records, documents and other pertinent evidence. Such investigation shall comply with state and federal copyright, trademark and trade secret laws.
- Section 3           Authorizes the Department to (1) issue subpoenas duces tecum and (2) take depositions, affidavits and written interrogatories. Parties and witnesses have a right to legal counsel at such proceedings. The evidence gathered shall be admissible in all State courts, subject to the rules of evidence.
- Section 4           A person who interferes or restrains an agent of the Department in the carrying out of duties herein provided shall be subject to a fine of not less than \$50 and not more than \$250 for each violation in this regard.
- Section 5           Declares emergency.

Summary of Committee Action

*(See Attached)*

Summary of Committee Action:

The Committee posted notice in accordance with Rule VIII, Section 13, and considered HB No. 1722 in a ( public hearing )  
on April 16, 1975. ~~formal meeting~~

The measure was referred to subcommittee and reported back favorably ( with )  
amendments on [signature], 1975. ~~without~~

The Committee voted, on April 16, 1975,  
by a record vote of 6 ayes and 0 nays, to report  
the measure back to the House favorably ( ~~with~~ ) amendments.  
without

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 9, 1975


Honorable Eddie Bernice Johnson, Chairman  
Committee on Labor  
House of Representatives  
Austin, Texas

In Re: House Bill No. 1722  
By: Nichols

Madam:

In response to your request and pursuant to House Rule VIII, Section 27, this office finds the fiscal implications of House Bill No. 1722 (relating to the gathering of information for administrative investigation and adjudication by the Texas Department of Labor and Standards) to be as follows:

No fiscal implication or additional cost to the State is anticipated in the event House Bill No. 1722 should pass and become law.

  
Thomas M. Keel  
Director

H.B. No. 1722

By Nichols

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MAR 13 1975

MAR 24 1975

3-25-75

APR 16 1975

APR 17 1975

1. Filed with the Chief Clerk of the House.
2. Read first time and Referred to Committee on Labor
3. Fiscal note requested from Legislative Budget Board by Calder Bernice Johnson
4. Reported favorably (unfavorably) (as amended) and sent to Printer APR 17 1975 1:20p M.
5. Printed, distributed by Calendar Clerk and sent to Committee on Calendars 4:30 P M.
6. Read second time (amended) and ordered engrossed by (Non-record vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present and not voting).
7. Motion to reconsider the vote by which H. B. \_\_\_\_\_ was ordered engrossed and to table the motion to reconsider prevailed (failed) by (Non-record vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present and not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present and not voting.
9. Read third time (amended) and finally passed by following vote: (Non-record vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present and not voting).
10. Caption ordered amended to conform to body of bill.
11. Motion to reconsider and table the vote by which H.B. \_\_\_\_\_ was finally passed prevailed (failed) by a (Non-record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present and not voting).
12. Sent to Engrossing Clerk \_\_\_\_\_  
Chief Clerk of the House
13. Engrossed.  
Engrossing Clerk of the House
14. Returned to Calendar Clerk \_\_\_\_\_
15. Sent to Senate.



- \_\_\_\_\_ 16. Received from the House \_\_\_\_\_
- \_\_\_\_\_ 17. Read, referred to Committee on \_\_\_\_\_
- \_\_\_\_\_ 18. Reported favorably \_\_\_\_\_
- \_\_\_\_\_ 19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
- \_\_\_\_\_ 20. Ordered not printed.
- \_\_\_\_\_ 21. Regular order of business suspended by  
(a viva voce vote.  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.
- \_\_\_\_\_ 22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.
- \_\_\_\_\_ 23. Read second time \_\_\_\_\_ passed to third reading by:  
(a viva voce vote.  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.
- \_\_\_\_\_ 24. Caption ordered amended to conform to body of bill.
- \_\_\_\_\_ 25. Senate and Constitutional 3-Day Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays to place bill on third reading and final passage.
- \_\_\_\_\_ 26. Read third time and passed by  
(a viva voce vote.  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

OTHER ACTION:

OTHER ACTION:

\_\_\_\_\_  
Secretary of the Senate

- \_\_\_\_\_ 27. Returned to the House.
- \_\_\_\_\_ 28. Received from the Senate (with amendments).